

THIS DISPOSITION IS NOT  
CITABLE AS PRECEDENT OF THE  
TTAB

June 3, 1997

Paper No. 10  
EJS

U.S. DEPARTMENT OF COMMERCE  
PATENT AND TRADEMARK OFFICE

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Trademark Trial and Appeal Board

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In re Fusion Lighting, Inc.

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Serial No. 74/589,336

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Martin Abramson of Pollock, Vande Sande & Priddy for Fusion  
Lighting, Inc.

Vivian Micznik First, Trademark Examining Attorney, Law  
Office 104 (Sidney I. Moskowitz, Managing Attorney)

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Before Seeherman, Hohein and Hairston, Administrative  
Trademark Judges.

Opinion by Seeherman, Administrative Trademark Judge:

Fusion Lighting, Inc. has appealed the final refusal of the Trademark Examining Attorney to register S LAMP for "electric light bulbs and lamps."<sup>1</sup> Registration has been refused pursuant to Section 2(e)(1) of the Trademark Act, 15 U.S.C. 1052(e)(1), on the ground that this mark is merely descriptive of applicant's goods. The case has been fully briefed, but an oral hearing was not requested.

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<sup>1</sup> Application Serial No. 74/589,336, filed October 24, 1994, based on a bona fide intention to use the mark in commerce.

A mark is merely descriptive if it immediately conveys information concerning a quality, characteristic, function, ingredient, attribute or feature of a product or service. Moreover, the question is decided not in a vacuum but in relation to the goods on which, or the services in connection with which, the mark is used. **In re Venture Lending Associates**, 226 USPQ 285, 286 (TTAB 1985).

The Examining Attorney asserts that applicant's mark is merely descriptive because the electric light bulbs and lamps with which it is used contain sulfur, and "S" is a recognized symbol for "sulfur." In support of her position she has made of record an excerpt from an article discussing applicant's lighting system, which states that "the system consists of a unique, golf-ball-size bulb containing sulfur, which emits an intense light when exposed to microwaves." "Federal News Service," March 14, 1995. The particular installation mentioned in the article indicates that two of these bulbs replaced 240 mercury bulbs, providing four times the light at one-third the cost. The Examining Attorney has also submitted a definition from a chemical dictionary,<sup>2</sup> showing that "S" is the symbol for sulfur, and has asked us to take judicial notice, which we do, of the Random House Unabridged Dictionary,<sup>3</sup> which also defines "S" as a symbol for "sulfur."

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<sup>2</sup> Hawley's Condensed Chemical Dictionary, 12th ed., © 1993.

<sup>3</sup> 2d ed., © 1993.

Applicant does not dispute that its lamp bulbs contain sulfur, and that "Lamp" is a generic term for lamps. However, applicant argues that its mark is not merely descriptive because consumers are not likely to know that "S" is the chemical symbol for sulfur, and that "S" has a non-descriptive meaning as "the first letter of the word 'sulfur' and in a language sense is therefore a shorthand abbreviation for the word sulfur." Brief, p. 2.

We find that S LAMP is merely descriptive, within the meaning of the Act, for electric light bulbs and lamps. Sulfur is clearly a major attribute of these bulbs and lamps. Moreover, "S" is the symbol for sulfur, as both the general and the chemical dictionary definitions show. Even if we accept applicant's claim that consumers would not be aware of the chemical symbol and would see "S" as an ordinary language abbreviation for "sulfur," the fact is that consumers purchasing light bulbs and lamps containing sulfur would immediately recognize S LAMP as indicating that these goods contain sulfur. Accordingly, S LAMP is merely descriptive of these goods.

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Decision: The refusal of registration is affirmed.

E. J. Seeherman

G. D. Hohein

P. T. Hairston  
Administrative Trademark Judges  
Trademark Trial and Appeal Board